

3

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT

JAIME BOTERO, on behalf of himself and  
all others similarly situated,

Plaintiffs,

C. A. No. 12-0186 B

v.

COMMONWEALTH LIMOUSINE  
SERVICE, INC. D/B/A  
COMMONWEALTH WORLDWIDE  
TRANSPORTATION and DAWSON A.  
RUTTER, JR., as President of  
Commonwealth Limousine Service, Inc. and  
Individually.

Defendants.

AMENDED COMPLAINT

1. This is a wage and hour class action in which Plaintiff seeks an award of damages, injunctive relief, and attorneys' fees and costs arising out of Defendants' violations of the Massachusetts Wage Act, the Massachusetts Overtime Laws, and the Fair Labor Standards Act (hereinafter the "FLSA").

2. As set forth below, Commonwealth Limousine Service, Inc. d/b/a Commonwealth Worldwide Transportation and Dawson A. Rutter, Jr. (collectively referred herein as "Commonwealth") failed to pay the Plaintiff and other similarly situated chauffeurs for all the hours they worked. Commonwealth required the chauffeurs to work a particular shift, yet only paid them for the time that they were actually transporting customers of Commonwealth or waiting on duty with customers of Commonwealth at their designated locations. Despite this fact, Commonwealth deducted 30 minutes from the chauffeurs work time for lunch, even though the chauffeurs were not given that time to eat lunch when they were working with customers. Additionally, despite the fact that the Plaintiff and other similarly situated chauffeurs regularly worked in excess of forty hours per week, Commonwealth failed to pay them the full amount of wages to which they were entitled for those overtime hours.

### **Jurisdiction and Venue**

3. Jurisdiction is proper in the Court because Commonwealth regularly transacts business within the Commonwealth of Massachusetts, including Suffolk County.

4. Venue is proper in Suffolk County because Commonwealth has a principal place of business in Suffolk County.

### **Parties**

5. Plaintiff Jaime Botero is a resident of Cambridge, Massachusetts.

6. On information and belief, individuals performing similar functions to Plaintiff, as chauffeurs, were treated similarly to Mr. Botero with respect to the allegations in this Complaint. Thus, Plaintiff brings this action on his own behalf and on behalf of:

“All persons who worked for Defendants in Massachusetts as chauffeurs, at any time between January 16, 2009 and the date of final judgment.”

(the “Class Period”), (such similarly situated persons are hereinafter referred to collectively as the “Class” or “Class Members”).

7. Defendant Commonwealth Limousine Service, Inc. is a corporation incorporated in the Commonwealth of Massachusetts, having its principal office at 250 Everett St., Allston, Massachusetts.

8. Defendant Commonwealth Limousine Service, Inc. does business as Commonwealth Worldwide Transportation.

9. Defendant Dawson A. Rutter, Jr. is presently, and has been at all times relevant to this complaint, according to records on file with the Secretary of the Commonwealth, the President and Treasurer of Commonwealth Limousine Service, Inc., and resides at 280 Beacon Street, Boston, Massachusetts.

10. During the relevant time period Defendants were employers subject to the Massachusetts wage and hour laws and the FLSA.

11. During the relevant time period, Defendants were required to compensate the Plaintiff and the members of the class they purport to represent in accordance with the requirements imposed on employers by Massachusetts law and the FLSA.

**Factual Allegations**

12. Plaintiff Jaime Botero has worked continuously for Defendants from approximately 2005 through October 18, 2011 as a chauffeur.

13. During the Class Period, Defendants were engaged in the business of providing chauffeured transportation services throughout the Commonwealth of Massachusetts.

14. Plaintiff's primary job duties included, but were not limited to, driving vehicles and transporting customers of the Defendants to various locations in the Commonwealth of Massachusetts.

15. Plaintiff was paid on an hourly basis, plus commissions.

16. Defendants regularly scheduled Plaintiff's work hours.

17. Plaintiff regularly reported certain of his hours to Defendants, as instructed by Defendants.

18. Defendants regularly received reports indicating the hours worked by Plaintiff.

19. Defendants failed to pay Plaintiff the full amount of wages to which he was entitled for all of his work time.

20. Defendants only compensated Plaintiff for time spent actually driving customers from one location to another or waiting on duty with customers at their designated locations.

21. Defendants did not compensate Plaintiff for his on-call time, despite the fact that the Plaintiff was required to remain on Defendants' premises or so close to a designated location that he could not use the time effectively for his own purposes and was not completely relieved of all work-related duties.

22. Because Defendants' policies ensured that the Plaintiff was never completely relieved of all work-related duties, Defendant should have compensated the Plaintiff from the time he reported for work until such time as he was completely relieved of all work-related duties.

23. Defendants regularly deducted 30 minutes from the Plaintiff's work time for lunch, even though Plaintiff was only compensated for his active duty time, and as such was never completely relieved of all work-related duties for those 30 minute periods.

24. Because Defendants' policies ensured that the Plaintiff was only paid for his time with customers, Defendants should have compensated the Plaintiff for the time he was supposedly on an unpaid lunch break.

25. Plaintiffs regularly worked in excess of forty hours per week.

26. Defendants were aware of Plaintiffs' overtime work hours, but failed to pay Plaintiffs the full amount of wages to which they were entitled for this work time.

27. Plaintiff and other persons employed by Defendants as chauffeurs repeatedly complained to Defendants about the failure to pay proper wages. Despite these complaints, Defendants nevertheless repeatedly continued in their failure to pay Plaintiffs and Class Members all of the wages due to them under the law.

28. Defendants have at all relevant times known about the foregoing practices, and Defendants' failure to pay Plaintiff and the Class Members on a timely basis all wages due, was made with either an evil motive or a reckless disregard for the rights of those employees.

29. Plaintiff has satisfied all prerequisites and conditions precedent necessary to seek the remedies sought in this action.

30. Attached as Exhibit A hereto is a letter from the office of the Attorney General authorizing Plaintiff to pursue the claims set forth in this Complaint through a private lawsuit in civil court and a Consent Form whereby Plaintiff consented to be a party to this action pursuant to 29 U.S.C. §216(b).

#### **Massachusetts Class Action Allegations**

31. Pursuant to M.G.L. c. 149, §150, M.G.L. c. 151, §1B, and Mass. R. Civ. P. 23, Plaintiff brings this action on behalf of himself and the Massachusetts Class Members to recover unpaid wages earned by them during the Class Period.

32. During the Class Period, Defendants paid all of the Massachusetts Class Members in the same manner and under the same standard employment procedures and practices as Plaintiff.

33. Defendants have been aware of the hours worked by the Massachusetts Class Members, but have failed to pay the Massachusetts Class Members the full amount of wages to which they are entitled for this work time.

34. Plaintiff is currently unaware of the identities of all Massachusetts Class Members. However, on information and belief, at least 70 persons have worked for Defendants performing these job functions in the Commonwealth of Massachusetts during the Class Period and would, therefore, be Massachusetts Class Members. For this reason, the Class is so numerous that joinder of all Massachusetts Class Members would be impracticable.

35. Plaintiff is currently unaware of the identities of all Massachusetts Class Members. However, on information and belief, at least 70 persons have worked for Defendants performing these job functions in the Commonwealth of Massachusetts during the Class Period and would, therefore, be Massachusetts Class Members. It is believed that most of these individuals would not likely file individual suits because they lack adequate financial resources, access to attorneys or knowledge of their claims. For this reason, the Class is so numerous that joinder of all Massachusetts Class Members would be impracticable and a class action would be an efficient mechanism for resolution of the claims of the Massachusetts Class

36. There exist numerous common questions of both law and fact, including: the number of hours worked by the chauffeurs; whether Defendants were required to pay the chauffeurs for all hours worked; whether it was proper for Defendants to refuse to pay the chauffeurs for all hours worked and all hours reported; how chauffeurs were required to spend their time while on-call; whether it is proper for Defendants to deduct 30 minutes from chauffeurs work time when they were only compensated for the time they spent actively with customers; whether the chauffeurs were classified as exempt employees; and whether Defendants acted with evil motive or a reckless disregard for the rights of chauffeurs.

37. There are also numerous questions of law including whether the Plaintiff and Massachusetts Class Members are entitled to compensation under M.G.L. c. 149 and 151. Any defenses raised by Defendants, including that their conduct did not violate Massachusetts Law, would be common to Plaintiff and all Massachusetts Class Members.

38. The claims of the Plaintiff are typical of the claims of the Class, because each Massachusetts Class Member was subject to and victimized by the same unlawful policies and practices of Defendants, and the Massachusetts Class Members all had the same basic job responsibilities as Plaintiff, as chauffeurs working for Defendants.

39. The Plaintiff is represented by counsel experienced in collective action litigation, and, in particular, in litigating claims under Massachusetts wage and hours laws and the FLSA. Plaintiff will both fairly and adequately protect the interests of the Class and have no conflicts with the interests of the Class.

40. The prosecution of separate actions against Defendants would create a risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for Defendants. In addition, adjudications with respect to individual members of the Class could as a practical matter be dispositive of the interests of all the other members of the Class not parties to such adjudications, or could substantially impede or impair their ability to protect their interests.

41. Questions of law or fact common to the members of the Class predominate over any questions affecting only individual Class Members. A class action is therefore superior to other available methods for the fair and efficient adjudication of the controversy. Facts not common to the Class are immaterial to resolving the common legal questions whether

Defendants' policies violated Massachusetts law. There will be no difficulty in managing this case as a class action.

42. The members of the Massachusetts Class are known to the Defendants and are readily identifiable through Defendants' records.

**FLSA Collective Action Allegations**

43. Pursuant to 29 U.S.C. §207 et seq., Plaintiff brings this action on behalf of himself and the FLSA Class Members to recover unpaid wages earned by them during the Class Period.

44. During the Class Period, Defendants paid all of the FLSA Class Members in the same manner and under the same standard employment procedures and practices as Plaintiff.

45. During the Class Period, Defendants have always had employees handling, selling or otherwise working on goods or materials that had been moved in or produced for commerce, and Defendants have always had annual gross sales of at least \$500,000.

46. The duties and business activities of the FLSA Class Members were essentially the same as the duties and activities of Plaintiff described above, and Defendants have been aware of those duties and activities.

47. During the Class Period, the FLSA Class Members have regularly worked in excess of forty hours per week.

48. During the Class Period, the FLSA Class Members performed manual labor.

49. While working for Defendants during the Class Period, the FLSA Class Members drove motor vehicles with a gross vehicle weight or gross vehicle weight rating of less than 10,001 pounds.

50. Defendants have been aware of the hours worked by the FLSA Class Members, but have failed to pay Plaintiff and the FLSA Class Members the full amount of wages to which they are entitled for this work time under the law.

51. Plaintiff and other persons employed by Defendants as Chauffeurs have repeatedly complained to Defendants about the failure to pay proper wages. Despite these complaints, Defendants have nevertheless repeatedly continued in their failure to pay the FLSA Class Members all of the wages due to them under the law.

52. Defendants also have been fully aware that the duties of Plaintiff and the FLSA Class Members were and are inconsistent with exempt status under the overtime provisions of the FLSA.

53. Yet, the FLSA Class Members, like Plaintiff, all have been subject to the same unlawful policy or plan to classify them as exempt from the provisions of the FLSA, while at the same time assigning them duties inconsistent with that status.

54. By their conduct, as set forth herein, Defendants violated 29 U.S.C. §207 by failing to pay the FLSA Class Members, like Plaintiff, one and one-half times their regular hourly rates (as calculated under the FLSA) for hours worked in excess of forty hours during a workweek.

55. As with Plaintiff, Defendants' violations of 29 U.S.C. §207 with respect to the FLSA Class Members were performed willfully, with a knowing or reckless disregard for whether such conduct was prohibited by the FLSA, and Plaintiff and the FLSA Class Members have been damaged by such violations.

56. As with Plaintiff, Defendants' violations of 29 U.S.C. §207 with respect to the FLSA Class Members were performed without good faith or any reasonable grounds to believe that such actions or omissions were not a violation of the FLSA.

57. Pursuant to 29 U.S.C. §207 and §216(b), Defendants are liable to Plaintiff and the FLSA Class Members for the full amount of all their unpaid overtime compensation, plus an additional equal amount as liquidated damages, plus their attorneys fees and costs.

58. Plaintiff is currently unaware of the identities of all FLSA Class Members. However, on information and belief, at least 70 persons have worked for Defendants performing these job functions in the Commonwealth of Massachusetts during the Class Period and would, therefore, be FLSA Class Members. It is believed that most of these individuals would not likely file individual suits because they lack adequate financial resources, access to attorneys or knowledge of their claims. For this reason, the Class is so numerous that joinder of all FLSA would be impracticable and a collective action would be an efficient mechanism for resolution of the claims of the FLSA Class.

59. In addition, a collective action under 29 U.S.C. §216(b) is superior to other available methods for the fair and efficient adjudication of this controversy, because the damages suffered by individual members of the FLSA Class may be relatively small, and the expense and burden of individual litigation would make it impossible for such persons individually to redress the wrongs done to them. Further, because of the similarity of the FLSA Class Members' claims, individual actions would present the risk of inconsistent adjudications subjecting Defendants to incompatible standards of conduct.

60. There exist numerous common questions of both law and fact, including: the number of hours worked by the chauffeurs; whether Defendants were required to pay the chauffeurs for all hours worked; whether it was proper for Defendants to refuse to pay the chauffeurs for all hours worked and all hours reported; how chauffeurs were required to spend

their time while on-call; whether it is proper for Defendants to deduct 30 minutes from chauffeurs work time when they were only compensated for the time they spent actively with customers; whether the chauffeurs were classified as exempt employees; and whether Defendants acted with evil motive or a reckless disregard for the rights of chauffeurs.

61. The claims of the Plaintiff are typical of the claims of the FLSA Class. Defendants acted consistently towards the FLSA Class Members, unlawfully classifying each such person as exempt from the overtime laws while having the same job duties which were inconsistent with exempt status. Defendants' defense that the members of the FLSA Class were correctly classified as exempt or otherwise not entitled to additional wages will be the same for each individual and will not turn on any individual differences in such persons' job duties.

62. Plaintiff can adequately and fairly represent the interests of the FLSA Class. Plaintiff has no potential conflicts with the proposed FLSA Class Members, and his individual interests are consistent with, not antagonistic to, the interests of the class. Furthermore, counsel for Plaintiff possess the requisite resources and ability to prosecute vigorously this case as a collective action and are experienced labor and employment attorneys who have litigated complex cases on behalf of individuals involving issues similar to those at issue in this case.

63. Defendants have acted or refused to act on grounds generally applicable to the FLSA Class, thereby making it appropriate that final injunctive relief or corresponding declaratory relief be available to the FLSA Class as a whole.

64. Plaintiff knows of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a collective action, and Plaintiff and counsel for Plaintiff suffer no conflicts of interest with any of the FLSA Class.

65. The members of the FLSA Class are known to the Defendants and are readily identifiable through Defendants' records.

### **Claims for Relief**

#### **Count I**

#### **Massachusetts Wage Act Claim (On Behalf of Plaintiffs and the Massachusetts Class)**

66. Defendants have been and continue to be an "employer" of Plaintiff and the Massachusetts Class Members within the meaning of the Massachusetts Wage Act (M.G.L. c. 149).

67. Plaintiff and the Massachusetts Class Members were "employees" of Defendants within the meaning of Massachusetts Wage Act (M.G.L. c. 149).



68. Defendants employed Plaintiff and the Massachusetts Class Members, suffering or permitting them to work within the meaning of Massachusetts Wage Act (M.G.L. c. 149).

69. Defendants failed to pay regular wages owed to Plaintiff and the Massachusetts Class Members on a timely basis for the work which they did for Defendants, in violation of the Massachusetts Wage Act (M.G.L. c. 149)..

70. Defendants' failure to pay wages owed to the Plaintiff and the Massachusetts Class Members as required by the Massachusetts Wage Act (M.G.L. c. 149) constituted outrageous conduct that was undertaken with either an evil motive or reckless indifference by Defendants of the rights of the Plaintiff and the Massachusetts Class Members.

71. As the result of the Defendants' violations of Massachusetts law set forth above, Plaintiff and the Massachusetts Class Members have incurred damages in an amount to be determined at trial, along with liquidated damages, attorneys' fees and costs of litigation.

**Count II**  
**Massachusetts Overtime Claim**  
**(On Behalf of Plaintiffs and the Massachusetts Class)**

72. Defendants have been and continue to be an "employer" of Plaintiff and the Massachusetts Class Members within the meaning of the Massachusetts overtime law (M.G.L. c. 151).

73. Plaintiff and the Massachusetts Class Members were "employees" of Defendants within the meaning of Massachusetts overtime law (M.G.L. c. 151).

74. Defendants employed Plaintiff and the Massachusetts Class Members, suffering or permitting them to work within the meaning of Massachusetts overtime law (M.G.L. c. 151).

75. Defendants failed to pay overtime premiums to Plaintiff and the Massachusetts Class Members for all such work hours in excess of 40 hours per workweek, in violation of the Massachusetts overtime law (M.G.L. c. 151).

76. Defendants' failure to pay wages owed to the Plaintiff and the Massachusetts Class Members as required by the Massachusetts overtime law (M.G.L. c. 151) constituted outrageous conduct that was undertaken with either an evil motive or reckless indifference by Defendants of the rights of the Plaintiff and the Massachusetts Class Members.

77. As the result of the Defendants' violations of Massachusetts law set forth above, Plaintiff and the Massachusetts Class Members have incurred damages in an amount to be determined at trial, along with liquidated damages, attorneys' fees and costs of litigation.

**Count III**  
**FLSA Collective Action Overtime Claim**  
**(On Behalf of Plaintiffs and the FLSA Class)**

78. Defendants have been and continues to be, an "employer" within the meaning of the FLSA (29 U.S.C. § 207(a)(2)).

79. Defendants have "employed" Plaintiff and the FLSA Class Members, suffering or permitting them to work within the meaning of the FLSA (29 U.S.C. § 203(g)).

80. Defendants were an "enterprise engaged in commerce or in the production of goods for commerce" within the meaning of the FLSA (29 U.S.C. § 203(s)).

81. Defendants' failures to pay overtime wages to Plaintiff and the FLSA Class Members for such work violates the FLSA (29 U.S.C. § 207).

82. Defendants' failures to provide required compensation for all hours worked by Plaintiff and the FLSA Class Members are willful violations within the meaning of the FLSA (29 U.S.C. § 255(a)).

83. Defendants' repeated and intentional failures to provide required compensation for all hours worked by Plaintiff and the FLSA Class Members were not made in good faith within the meaning of FLSA (29 U.S.C. § 260).

84. As a result of Defendants' violations of the FLSA, Plaintiff and the FLSA Class Members have incurred harm and loss in an amount to be determined at trial, along with liquidated damages, attorneys' fees and costs of litigation, pursuant to 29 U.S.C. § 216(b).

**Prayer for Relief**

WHEREFORE, Plaintiff respectfully requests that the Court:

- (A) Declare this action to be maintainable as a collective action pursuant to 29 U.S.C. §216(b), appointing Plaintiff and his counsel to represent the FLSA Class Members, and order notice sent to the FLSA Class members immediately;
- (B) Declare this action to be maintainable as a class action pursuant to Mass. R. Civ. P. 23 and/or to be a representative action on behalf of all of those similarly situated pursuant to M.G.L. c. 149, §150, appointing Plaintiff and his counsel to represent the Massachusetts Class Members;
- (C) Require Defendants to provide an accounting to Plaintiff of the amount of damages incurred by him, the Massachusetts Class Members, and the FLSA Class Members, and direct Defendants to provide to Plaintiff a list of all persons

employed by them as Chauffeurs during the Class Period, including the last known address and telephone numbers, so that Plaintiff can give such Massachusetts Class Members and FLSA Class Members notice of the pendency of this action and an opportunity to make an informed and timely decision about whether to participate in it;

- (D) Determine the damages sustained by Plaintiff and the Massachusetts Class Members as the result of Defendants' unlawful conduct and award those damages, trebled, against the Defendants and in favor of the Plaintiff and the Massachusetts Class Members, together with such prejudgment interest as may be allowed by law;
- (E) Determine the damages sustained by Plaintiff and the FLSA Class Members as the result of Defendants' unlawful conduct and award those damages, plus an additional equal amount as liquidated damages pursuant to 29 U.S.C. §216(b), against the Defendants and in favor of the Plaintiff and the FLSA Class Members, together with such prejudgment interest as may be allowed by law;
- (D) Award Plaintiff, the Massachusetts Class Members, and the FLSA Class Members their costs and disbursements of this suit, including, without limitation, reasonable attorneys' fees and any reasonable accountants' or experts' fees;
- (E) Enter a permanent injunction ordering Defendants henceforth to refrain from engaging in the unlawful conduct described in this Complaint and to take all necessary measures to ensure that it is at all times in compliance with such injunction; and
- (F) Grant Plaintiff and the Class Members such other and further relief as the Court may deem just and proper.

By the attorneys for the Plaintiffs and the Class Members,

**HEREBY ATTEST AND CERTIFY ON**

March 14, 2012

**THAT THE  
FOREGOING DOCUMENT IS A FULL  
TRUE AND CORRECT COPY OF THE  
ORIGINAL ON FILE IN MY OFFICE,  
AND IN MY LEGAL CUSTODY.**

**MICHAEL JOSEPH DONOHAN  
CLERK / MAGISTRATE  
SUFFOLK SUPERIOR CIVIL COURT  
DEPARTMENT OF THE TRIAL COURT**

BY:   
Asst. Clerk

Dated: January 25, 2012

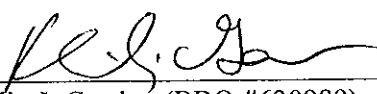
  
Philip J. Gordon (BBO #630989)  
Kristen M. Hurley (BBO #658237)  
GORDON LAW GROUP LLP  
585 Boylston Street  
Boston, Massachusetts 02116  
(617) 536-1800

EXHIBIT A

Private Right of Action Letter from Attorney General and  
FLSA Consent Form



MARTHA COAKLEY  
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

January 5, 2012

(617) 727-2200  
www.mass.gov/ago

Kristen M. Hurley  
Gordon Law Group, LLP  
585 Boylston Street  
Boston, MA 02116

Re: Private Right of Action – Jaime Botero

Authorizing for Immediate Private Suit – Commonwealth Limousine Service, Inc.  
d/b/a Commonwealth Worldwide Transportation and Dawson A. Rutter, Jr.

Dear Atty. Hurley:

Thank you for contacting the Office of the Attorney General's Fair Labor and Business Practices Division.

This letter is to inform you that we have carefully reviewed the complaint and have determined that the proper resolution of this matter may be through a private suit in civil court. Accordingly, we are authorizing you to pursue this matter through a civil lawsuit immediately.

Massachusetts General Laws, chapter 149, sec. 150, and chapter 151, secs. 1B and 20 establish a private right of action for employees who believe they are victims of certain violations of the state wage laws. If you elect to sue in civil court, you may bring an action on your clients' behalf and others similarly situated, and they may obtain injunctive relief, treble damages for any loss or wages and other benefits, as well as the costs of litigation and reasonable attorneys' fees.

Without making a judgment on the merits of the complaint, this correspondence represents this office's written assent to sue and grants you the authority to pursue this matter against the employer *as well as against the president, treasurer of the corporation and any officers or agents having the management of such corporation*, immediately, as permitted by Massachusetts General Laws chapters 149 and 151. This office will not take further enforcement action at this time. Thank you for your attention to this matter

Sincerely,

A handwritten signature in dark ink, appearing to read "Bruce Trager".

Bruce Trager  
Assistant Attorney General  
Fair Labor and Business Practices Division  
(617) 727-2200, extension 2336

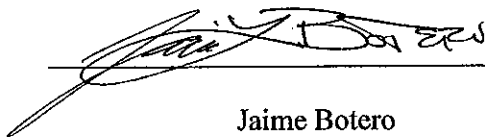
B/T/mm



**CONSENT TO ACT AS PLAINTIFF**

Pursuant to 29 U.S.C. §216(b), I consent to act as a plaintiff in a case against COMMONWEALTH LIMOUSINE SERVICE, INC. D/B/A COMMONWEALTH WORLDWIDE TRANSPORTATION and DAWSON A. RUTTER, JR., as President of Commonwealth Limousine Service, Inc. and Individually. I do this both on my own behalf and on behalf of all persons similarly situated.

Dated: January 26<sup>th</sup>, 2012



Jaime Botero

<b>CIVIL ACTION COVER SHEET</b>		TRIAL COURT OF MASSACHUSETTS SUPERIOR COURT DEPARTMENT	DOCKET NO. <b>12-0186</b>
COUNTY <b>SUFFOLK</b>			
OF <b>Jaime Botero, on behalf of</b> <b>PLAINTIFF(S) himself and all others similarly</b> <b>situated</b>		<b>Commonwealth Limousine Service, Inc.</b> <b>d/b/a Commonwealth Worldwide</b> <b>Transportation and Dawson A. Rutter,</b> <b>Jr.</b> <b>DEFENDANT(S)</b>	
Type Plaintiff's Attorney name, Address, City/State/Zip Phone Number and BBO#		Type Defendant's Attorney Name, Address, City/State/Zip Phone Number (If Known)	

Philip J. Gordon, Esq., Gordon Law Group, LLP, 585 Boylston  
Street, Boston, MA 02116, (617)536-1800, BBO# 630989

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)			IS THIS A JURY CASE?
CODE NO.	TYPE OF ACTION (specify)	TRACK	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>A99</b>	<b>Other (specify) - Fast Track - Violation of the Massachusetts</b> <b>Wage Act</b>		

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS (Attach additional sheets as necessary)		
A. Documented medical expenses to date:		
1. Total hospital expenses		\$
2. Total doctor expenses		\$
3. Total chiropractic expenses		\$
4. Total physical therapy expenses		\$
5. Total other expenses (describe)		\$
	Subtotal	\$
B. Documented lost wages and compensation to date		\$
C. Documented property damages to date		\$
D. Reasonably anticipated future medical expenses		\$
E. Reasonably anticipated lost wages and compensation to date		\$
F. Other documented items of damages (describe)		\$
G. Brief description of plaintiff's injury, including nature and extent of injury (describe)		\$
Total \$		

CONTRACT CLAIMS (Attach additional sheets as necessary)	
Provide a detailed description of claim(s):	
The Defendants failed to pay the Plaintiff wages which were due and owing in violation of the Massachusetts Wage Act.	TOTAL AT LEAST \$25,000.00

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record [Signature] Date: 1/16/2010  
A.O.S.C. 3-2007

HEREBY ATTEST AND CERTIFY ON

March 14, 2012 THAT THE  
FOREGOING DOCUMENT IS A FULL,  
TRUE AND CORRECT COPY OF THE  
ORIGINAL ON FILE IN MY OFFICE,  
AND IN MY LEGAL CUSTODY.

MICHAEL JOSEPH DONOVAN  
CLERK / MAGISTRATE  
SUFFOLK SUPERIOR CIVIL COURT  
DEPARTMENT OF THE TRIAL COURT

BY: [Signature]  
Asst. Clerk

Case Summary

Civil Docket

**SUCV2012-00186**

**Botero v Comm Limousine Serv Inc dba et al**

<b>File Date</b>	01/17/2012	<b>Status</b>	Disposed: transfered to other court (dtrans)
<b>Status Date</b>	03/14/2012	<b>Session</b>	B - Civil B, 3 Pemberton Sq, Boston
<b>Orign</b>	1 - Complaint	<b>Case Type</b>	A99 - Misc contract
<b>Track</b>	F - Fast track	<b>Lead Case</b>	
		<b>Jury Trial</b>	No

**DEADLINES**

	<b>Service</b>	<b>Answer</b>	<b>Rule12/19/20</b>	<b>Rule 15</b>	<b>Discovery</b>	<b>Rule 56</b>	<b>Final PTC</b>	<b>Judgment</b>
<b>Served By</b>			05/16/2012	05/16/2012	11/12/2012	12/12/2012		
<b>Filed By</b>	04/16/2012	05/16/2012	06/15/2012	06/15/2012		01/11/2013		11/07/2013
<b>Heard By</b>			07/15/2012	07/15/2012			05/11/2013	

**PARTIES**

**Plaintiff**

Jaime Botero  
Active 01/17/2012

**Private Counsel 630989**

Phillip J Gordon  
Gordon Law Group LLP  
585 Boylston Street  
Boston, MA 02116  
Phone: 617-536-1800  
Fax: 617-536-1802  
Active 01/17/2012 Notify

**Defendant**

Comm Limousine Serv Inc dba  
Served: 02/08/2012  
Served (answr pending) 02/22/2012

**Private Counsel 630395**

C Max Perlman  
Hirsh Roberts Weinstin LLP  
24 Federal Street  
12th Floor  
Boston, MA 02110  
Phone: 617-348-4300  
Fax: 617-348-4343  
Active 03/14/2012 Notify

**Private Counsel 658698**

Kristy L Avino  
Hirsh Roberts Weinstin LLP  
24 Federal Street  
12th Floor  
Boston, MA 02110  
Phone: 617-348-4300  
Fax: 617-348-4343  
Active 03/14/2012 Notify

**Doing busnss as (alias)**

Comm Worldwide Transportation  
Active 01/17/2012



Commonwealth of Massachusetts  
SUFFOLK SUPERIOR COURT

Case Summary  
Civil Docket

**SUCV2012-00186**  
**Botero v Comm Limousine Servir Inc dba et al**

**Defendant**

Dawson A Rutter Jr Pres  
Served: 02/07/2012  
Served (answr pending) 02/22/2012

**Private Counsel 630395**

C Max Perlman  
Hirsh Roberts Weinstin LLP  
24 Federal Street  
12th Floor  
Boston, MA 02110  
Phone: 617-348-4300  
Fax: 617-348-4343  
Active 03/14/2012 Notify

**Private Counsel 658698**

Kristy L Avino  
Hirsh Roberts Weinstin LLP  
24 Federal Street  
12th Floor  
Boston, MA 02110  
Phone: 617-348-4300  
Fax: 617-348-4343  
Active 03/14/2012 Notify

**ENTRIES**

Date	Paper	Text
01/17/2012	1.0	Complaint
01/17/2012		Origin 1, Type A99, Track F.
01/17/2012	2.0	Civil action cover sheet filed (\$25,000.00)
02/01/2012	3.0	Amended complaint of plff
02/22/2012	4.0	SERVICE RETURNED: Comm Limousine Servir Inc dba(Defendant) (In hand)
02/22/2012	5.0	SERVICE RETURNED: Dawson A Rutter Jr Pres(Defendant) (last & usual)
03/07/2012		Copy of Petition for Removal to Us Dist Court of defendants Commonwealth Limousine Service, Inc. and Dawson A. Rutter, Jr., (12-cv-10428-NMG)
03/14/2012		Case REMOVED this date to US District Court of Massachusetts

**EVENTS**

**HEREBY ATTEST AND CERTIFY ON**

March 14, 2012

**THAT THE  
FOREGOING DOCUMENT IS A FULL,  
TRUE AND CORRECT COPY OF THE  
ORIGINAL ON FILE IN MY OFFICE,  
AND IN MY LEGAL CUSTODY.**

**MICHAEL JOSEPH DONOVAN  
CLERK / MAGISTRATE  
SUFFOLK SUPERIOR CIVIL COURT  
DEPARTMENT OF THE TRIAL COURT**

By: 

Asst. Clerk

1

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT

JAIME BOTERO, on behalf of himself and  
all others similarly situated,

Plaintiffs,

C. A. No.

12-0186 B

v.

COMMONWEALTH LIMOUSINE  
SERVICE, INC. D/B/A  
COMMONWEALTH WORLDWIDE  
TRANSPORTATION and DAWSON A.  
RUTTER, JR., as President of  
Commonwealth Limousine Service, Inc. and  
Individually.

Defendants.

2012 JUN 17 AM 11:54  
MICHAEL J. CLERK/CLERK

**COMPLAINT**

1. This is a wage and hour class action in which Plaintiff seeks an award of damages, injunctive relief, and attorneys' fees and costs arising out of Defendants' violations of the Massachusetts Wage Act.

2. As set forth below, Commonwealth Limousine Service, Inc. d/b/a Commonwealth Worldwide Transportation and Dawson A. Rutter, Jr. (collectively referred herein as "Commonwealth") failed to pay the Plaintiff and other similarly situated chauffeurs for all the hours they worked. Commonwealth required the chauffeurs to work a particular shift, yet only paid them for the time that they were actually transporting customers of Commonwealth or waiting on duty with customers of Commonwealth at their designated locations. Despite this fact, Commonwealth deducted 30 minutes from the chauffeurs work time for lunch, even though the chauffeurs were not allowed to eat lunch when they were with customers.

**Jurisdiction and Venue**

3. Jurisdiction is proper in the Court because Commonwealth regularly transacts business within the Commonwealth of Massachusetts, including Suffolk County.

4. Venue is proper in Suffolk County because Commonwealth has a principal place of business in Suffolk County.

### **Parties**

5. Plaintiff Jamie Botero is a resident of Cambridge, Massachusetts.

6. On information and belief, individuals performing similar functions to Plaintiff, as chauffeurs, were treated similarly to Mr. Botero with respect to the allegations in this Complaint. Thus, Plaintiff brings this action on his own behalf and on behalf of:

“All persons who worked for Defendants as chauffeurs, at any time between January 16, 2009 and the date of final judgment.”

(the “Class Period”), (such similarly situated persons are hereinafter referred to collectively as the “Class” or “Class Members”).

7. Defendant Commonwealth Limousine Service, Inc. is a corporation incorporated in the Commonwealth of Massachusetts, having its principal office at 250 Everett St., Allston, Massachusetts.

8. Defendant Commonwealth Limousine Service, Inc. does business as Commonwealth Worldwide Transportation.

9. Defendant Dawson A. Rutter, Jr. is presently, and has been at all times relevant to this complaint, according to records on file with the Secretary of the Commonwealth, the President and Treasurer of Commonwealth Limousine Service, Inc., and resides at 280 Beacon Street, Boston, Massachusetts.

10. During the relevant time period Defendants were employers subject to the Massachusetts wage and hour laws.

11. During the relevant time period, Defendants were required to compensate the Plaintiff and the members of the class they purport to represent in accordance with the requirements imposed on employers by Massachusetts law.

### **Factual Allegations**

12. Plaintiff Jamie Botero has worked continuously for Defendants from approximately 2005 through October 18, 2011 as a chauffeur.

13. During the Class Period, Defendants were engaged in the business of providing chauffeured transportation services throughout the Commonwealth of Massachusetts.

14. Plaintiff's primary job duties included, but were not limited to, driving vehicles and transporting customers of the Defendants to various locations in the Commonwealth of Massachusetts.

15. Plaintiff was paid on an hourly basis, plus commissions.

16. Plaintiff regularly reported his hours to Defendants.

17. Defendants regularly received reports indicating the hours worked by Plaintiff.

18. Defendants failed to pay Plaintiff the full amount of wages to which he was entitled for all of his work time.

19. Defendants only compensated Plaintiff for time spent actually driving customers from one location to another or waiting on duty with customers at their designated locations.

20. Defendants did not compensate Plaintiff for his on-call time, despite the fact that the Plaintiff was required to be on site and was not completely relieved of all work-related duties.

21. Because Defendants' policies ensured that the Plaintiff was never completely relieved of all work-related duties, Defendant should have compensated the Plaintiff from the time he reported for work until such time as he was completely relieved of all work-related duties.

22. Defendants regularly deducted 30 minutes from the Plaintiff's work time for lunch, even though Plaintiff was only compensated for his active duty time, and as such was never completely relieved of all work-related duties.

23. Because Defendants' policies ensured that the Plaintiff was only paid for his time with customers, Defendants should have compensated the Plaintiff for the time he was supposedly on a lunch break.

24. Plaintiff and other persons employed by Defendants as chauffeurs repeatedly complained to Defendants about the failure to pay proper wages. Despite these complaints, Defendants nevertheless repeatedly continued in their failure to pay Plaintiffs and Class Members all of the wages due to them under the law.

25. Defendants have at all relevant times known about the foregoing practices, and Defendants' failure to pay Plaintiff and the Class Members on a timely basis all wages due, was made with either an evil motive or a reckless disregard for the rights of those employees.

26. Plaintiff has satisfied all prerequisites and conditions precedent necessary to seek the remedies sought in this action.

27. Attached as Exhibit A hereto is a letter from the office of the Attorney General authorizing Plaintiff to pursue the claims set forth in this Complaint through a private lawsuit in civil court.

**Class Action Allegations**

28. Pursuant to M.G.L. c. 149, §150 and Mass. R. Civ. P. 23, Plaintiff brings this action on behalf of himself and the Class Members to recover unpaid wages earned by them during the Class Period.

29. During the Class Period, Defendants paid all of the Massachusetts Class Members in the same manner and under the same standard employment procedures and practices as Plaintiff.

30. Defendants have been aware of the hours worked by the Massachusetts Class Members, but have failed to pay the Class Members the full amount of wages to which they are entitled for this work time.

31. Plaintiff is currently unaware of the identities of all Class Members. However, on information and belief, at least 70 persons have worked for Defendants performing these job functions in the Commonwealth of Massachusetts during the Class Period and would, therefore, be Class Members. For this reason, the Class is so numerous that joinder of all Class Members would be impracticable.

32. There exist numerous common questions of both law and fact, including: whether Defendants were required to pay chauffeurs for all hours worked; whether it was proper for Defendants to refuse to pay chauffeurs for all hours worked and all hours reported; how chauffeurs were required to spend their time while on-call; whether it is proper for Defendants to deduct 30 minutes from chauffeurs work time when they were only compensated for the time they spent actively with customers; and whether Defendants acted with evil motive or a reckless disregard for the rights of chauffeurs.

33. There are also numerous questions of law including whether the Plaintiff and Class Members are entitled to compensation under M.G.L. c. 149, § 148. Any defenses raised by Defendants, including that their conduct did not violate Massachusetts Law, would be common to Plaintiff and all Class Members.

34. The claims of the Plaintiff are typical of the claims of the Class, because each Class Member was subject to and victimized by the same unlawful policies and practices of Defendants, and the Class Members all had the same basic job responsibilities as Plaintiff, as chauffeurs working for Defendants.

35. The Plaintiff is represented by counsel experienced in collective action litigation, and, in particular, in litigating claims under Massachusetts wage and hours laws. Plaintiff will

both fairly and adequately protect the interests of the Class and have no conflicts with the interests of the Class.

36. The prosecution of separate actions against Defendants would create a risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for Defendants. In addition, adjudications with respect to individual members of the Class could as a practical matter be dispositive of the interests of all the other members of the Class not parties to such adjudications, or could substantially impede or impair their ability to protect their interests.

37. Questions of law or fact common to the members of the Class predominate over any questions affecting only individual Class Members. A class action is therefore superior to other available methods for the fair and efficient adjudication of the controversy. Facts not common to the Class are immaterial to resolving the common legal questions whether Defendants' policies violated Massachusetts law. There will be no difficulty in managing this case as a class action.

38. The members of the Class are known to the Defendants and are readily identifiable through Defendants' records.

### **Claims for Relief**

#### **Count I**

#### **Massachusetts Wage Act Claim (On Behalf of Plaintiffs and the Class)**

39. Defendants employed Plaintiff and the Class Members and suffered or permitted them to work within the meaning of the Massachusetts Wage Act, M.G.L. c. 149, §148 (the "Wage Act").

40. Defendants failed to pay regular wages owed to Plaintiff and the Class Members on a timely basis for the work which they did for Defendants, in violation of the Wage Act.

41. Defendants' failure to pay wages owed to the Plaintiff and the Class Members as required by the Wage Act constituted outrageous conduct that was undertaken with either an evil motive or reckless indifference by Defendants of the rights of the Plaintiff and the Class Members.

42. As the result of the Defendants' violations of Massachusetts law set forth above, Plaintiff and the Class Members have incurred damages in an amount to be determined at trial, along with liquidated damages, attorneys' fees and costs of litigation.

### **Prayer for Relief**


WHEREFORE, Plaintiff respectfully requests that the Court:

- (A) Declare this action to be maintainable as a class action pursuant to Mass. R. Civ. P. 23 and/or to be a representative action on behalf of all of those similarly situated pursuant to M.G.L. c. 149, §150;
- (B) Require Defendants to provide an accounting to Plaintiff of the amount of damages incurred by him and the Class Members and to provide a mechanism to identify and notify such persons of the losses they have suffered and to provide for the fair and equitable distribution of all damages awarded in this action;
- (C) Determine the damages sustained by Plaintiff and the Class Members as the result of Defendants' unlawful conduct and award those damages, trebled, against the Defendants and in favor of the Plaintiff and the Class Members, together with such prejudgment interest as may be allowed by law;
- (D) Award Plaintiff and the Class Members their costs and disbursements of this suit, including, without limitation, reasonable attorneys' fees and any reasonable accountants' or experts' fees;
- (E) Enter a permanent injunction ordering Defendants henceforth to refrain from engaging in the unlawful conduct described in this Complaint and to take all necessary measures to ensure that it is at all times in compliance with such injunction; and
- (F) Grant Plaintiff and the Class Members such other and further relief as the Court may deem just and proper.

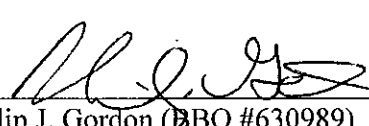
**HEREBY ATTEST AND CERTIFY ON**

**March 14, 2012, THAT THE  
FOREGOING DOCUMENT IS A FULL,  
TRUE AND CORRECT COPY OF THE  
ORIGINAL ON FILE IN MY OFFICE,  
AND IN MY LEGAL CUSTODY.**

**MICHAEL JOSEPH DONOVAN  
CLERK / MAGISTRATE  
SUFFOLK SUPERIOR CIVIL COURT  
DEPARTMENT OF THE TRIAL COURT**

**By:   
Asst. Clerk**

By the attorneys for the Plaintiffs and the Class Members,

  
Philip J. Gordon (BBO #630989)  
Kristen M. Hurley (BBO #658237)  
GORDON LAW GROUP LLP  
585 Boylston Street  
Boston, Massachusetts 02116  
(617) 536-1800

Dated: January 16, 2012

EXHIBIT A

Private Right of Action Letter from Attorney General





THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

MARTHA COAKLEY  
ATTORNEY GENERAL

January 5, 2012

(617) 727-2200  
www.mass.gov/ago

Kristen M. Hurley  
Gordon Law Group, LLP  
585 Boylston Street  
Boston, MA 02116

Re: Private Right of Action – Jaime Botero

Authorizing for Immediate Private Suit – Commonwealth Limousine Service, Inc.  
d/b/a Commonwealth Worldwide Transportation and Dawson A. Rutter, Jr.

Dear Atty. Hurley:

Thank you for contacting the Office of the Attorney General's Fair Labor and Business Practices Division.

This letter is to inform you that we have carefully reviewed the complaint and have determined that the proper resolution of this matter may be through a private suit in civil court. Accordingly, we are authorizing you to pursue this matter through a civil lawsuit immediately.

Massachusetts General Laws, chapter 149, sec. 150, and chapter 151, secs. 1B and 20 establish a private right of action for employees who believe they are victims of certain violations of the state wage laws. If you elect to sue in civil court, you may bring an action on your clients' behalf and others similarly situated, and they may obtain injunctive relief, treble damages for any loss or wages and other benefits, as well as the costs of litigation and reasonable attorneys' fees.

Without making a judgment on the merits of the complaint, this correspondence represents this office's written assent to sue and grants you the authority to pursue this matter against the employer *as well as against the president, treasurer of the corporation and any officers or agents having the management of such corporation*, immediately, as permitted by Massachusetts General Laws chapters 149 and 151. This office will not take further enforcement action at this time. Thank you for your attention to this matter

Sincerely,

A handwritten signature in cursive script, appearing to read "Bruce Trager".

Bruce Trager

Assistant Attorney General  
Fair Labor and Business Practices Division  
(617) 727-2200, extension 2336

BT/mm

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

JAIME BOTERO, on behalf of himself and  
all others similarly situated,

Plaintiffs,

vs.

COMMONWEALTH LIMOUSINE  
SERVICE INC. D/B/A  
COMMONWEALTH WORLDWIDE  
TRANSPORTATION and DAWSON A.  
RUTTER, JR. as President of  
Commonwealth Limousine Services, Inc.,  
and Individually.

Defendants.

Civil Action No. 12-0186B

U.S. Dist #  
12-CV-10428-NMG

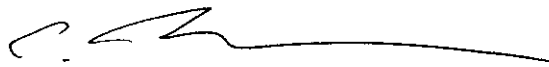
SUFFOLK SUPERIOR COURT  
CIVIL CLERK'S OFFICE  
2012 MAR -7 PM 3:37  
MICHAEL J. JOSEPH, JR.  
CLERK/MAGISTRATE

**NOTICE OF FILING NOTICE OF REMOVAL TO FEDERAL COURT**

On March 7, 2012, Defendant filed in the United States District Court for the District of Massachusetts a Notice of Removal to Federal Court. A true and correct copy of the Notice of Removal is attached to this Notice.

COMMONWEALTH LIMOUSINE SERVICE,  
INC. and DAWSON A. RUTTER, JR.,

By their attorneys,



C. Max Perlman, Esq. (BBO# 630395)

max@hrwlawyers.com

Kristy L. Avino, Esq. (BBO# 658698)

kavino@hrwlawyers.com

Hirsch Roberts Weinstein LLP

24 Federal Street, 12<sup>th</sup> Floor

Boston, Massachusetts 02110

Telephone (617) 348-4300

Facsimile (617) 348-4343

HEREBY ATTEST AND CERTIFY ON

March 14, 2012

THAT THE  
FOREGOING DOCUMENT IS A FULL,  
TRUE AND CORRECT COPY OF THE  
ORIGINAL ON FILE IN MY OFFICE,  
AND IN MY LEGAL CUSTODY.

MICHAEL JOSEPH DONOVAN  
CLERK / MAGISTRATE  
SUFFOLK SUPERIOR CIVIL COURT  
DEPARTMENT OF THE TRIAL COURT

BY:   
Asst. Clerk

March 7, 2012

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon plaintiff's counsel of record by sending a copy by hand delivery to Philip J. Gordon, 585 Boylston Street, Boston, Massachusetts 02116 on March 7, 2012.



C. Max Perlman

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

JAIME BOTERO, on behalf of himself and  
all others similarly situated,

Plaintiffs,

vs.

COMMONWEALTH LIMOUSINE  
SERVICE INC. D/B/A  
COMMONWEALTH WORLDWIDE  
TRANSPORTATION and DAWSON A.  
RUTTER, JR. as President of  
Commonwealth Limousine Services, Inc.,  
and Individually.

Defendants.

Civil Action No.

[On removal from Superior Court of  
Suffolk County, Massachusetts,  
C.A. No. 12-0186B]

SUFFOLK SUPERIOR COURT  
CIVIL CLERK'S OFFICE  
2012 MAR -7 PM 3:37  
MICHAEL J. CONWAY  
CLERK/MAGISTRATE

**NOTICE OF REMOVAL**

**TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF MASSACHUSETTS:**

Pursuant to 28 U.S.C. §§ 1331 and 1446, Defendants Commonwealth Limousine Service, Inc. and Dawson A. Rutter hereby give notice of the removal to this Court of the above-captioned civil action, commenced in the Commonwealth of Massachusetts Superior Court, Suffolk County. As grounds for the removal, Defendants state:

1. The Complaint in the state court action, Civil Action No. No. 12-0186B, was served on Defendants on February 8, 2010. This Notice of Removal is, therefore, timely. 28 U.S.C. § 1446(b).
2. In Count III of the Amended Complaint, Plaintiff brings a claim for a collective action for overtime wages under federal law, specifically 29 U.S.C. § 207 and 29 U.S.C. § 216(b).

3. Defendants are entitled to remove Plaintiff's action to this Court pursuant to 28 U.S.C. § 1446 because this Court has original jurisdiction over this matter under the provisions of 28 U.S.C. § 1331 (establishing federal question jurisdiction) and the action is pending within this District and Division.

4. Pursuant to 28 U.S.C. § 1446(d), notice of the filing of this Notice of Removal is being given to Plaintiff through the filing a Notice of Filing Notice of Removal of Action, along with a copy of this Notice of Removal, and by service upon all parties in accordance with applicable law.

5. Pursuant to 28 U.S.C. § 1446(a), copies of all process and pleadings served on Defendants in this action are attached hereto as Exhibit 1.

COMMONWEALTH LIMOUSINE SERVICE,  
INC. and DAWSON A. RUTTER, JR.,  
By its attorneys,

/s/ Kristy L. Avino  
C. Max Perlman, Esq. (BBO# 630395)  
max@hrwlawyers.com  
Kristy L. Avino, Esq. (BBO# 658698)  
kavino@hrwlawyers.com  
Hirsch Roberts Weinstein LLP  
24 Federal Street, 12<sup>th</sup> Floor  
Boston, Massachusetts 02110  
Telephone (617) 348-4300  
Facsimile (617) 348-4343

March 7, 2012

**CERTIFICATE OF SERVICE**

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on March 7, 2012.

/s/ Kristy L. Avino

Kristy L. Avino

JS 44 (Rev. 09/11)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

Jaime Botero, on behalf of himself and all others similarly situated

(b) County of Residence of First Listed Plaintiff Middlesex  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Philip J. Gordon and Kristen M. Hurley, Gordon Law Group LLP  
585 Boylston Street, Boston, MA 02116  
(617)536-1800

## DEFENDANTS

Commonwealth Limousine Service, Inc. d/b/a Commonwealth Worldwide Transportation and Dawson A. Rutter, Jr.

County of Residence of First Listed Defendant Suffolk  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)  
C. Max Perlman and Kristy L. Avino, Hirsch Roberts Weinstein LLP  
24 Federal Street, 12th Floor, Boston, MA 02110  
(617)348-4300

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability			<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability				<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine				<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability				<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 370 Other Fraud	<input checked="" type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 751 Family and Medical Leave Act		<input type="checkbox"/> 495 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 790 Other Labor Litigation		<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		<input type="checkbox"/> 891 Agricultural Acts
					<input type="checkbox"/> 893 Environmental Matters
					<input type="checkbox"/> 895 Freedom of Information Act
					<input type="checkbox"/> 896 Arbitration
					<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
					<input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. §§ 1331 and 1446.

Brief description of cause:

Plaintiff seeks wages pursuant to 29 U.S.C. s. 207 and Massachusetts state law.

## VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:

☐ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

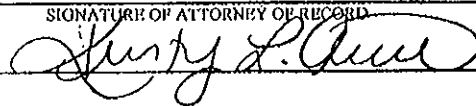
Suffolk Superior 12-0186B

DATE

03/06/2012

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY



RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Jaime Botero v. Commonwealth Limousine Service, Inc. et. al.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

☐

I. 410, 441, 470, 535, 830\*, 891, 893, 895, R.23, REGARDLESS OF NATURE OF SUIT.

☒

II. 110, 130, 140, 160, 190, 196, 230, 240, 290, 320, 362, 370, 371, 380, 430, 440, 442, 443, 445, 446, 448, 710, 720, 740, 790, 820\*, 840\*, 850, 870, 871.

☐

III. 120, 150, 151, 152, 153, 195, 210, 220, 245, 310, 315, 330, 340, 345, 350, 355, 360, 365, 367, 368, 375, 385, 400, 422, 423, 450, 460, 462, 463, 465, 480, 490, 510, 530, 540, 550, 555, 625, 690, 751, 791, 861-865, 890, 896, 899, 950.

\*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐NO ☒

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐NO ☒7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☒NO ☐A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☒Central Division ☐Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐Central Division ☐Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME C. Max Perlman and Kristy L. Avino, Hirsch Roberts WeinsteinADDRESS 24 Federal Street, 12th Floor, Boston, Massachusetts 02110TELEPHONE NO. (617)348-4300



## Commonwealth of Massachusetts

4

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL ACTIONNo. 12-0186 BJaime Botero, on behalf of himself and others, Plaintiff(s)  
similarly situated

v.

Commonwealth Limousine Service, Inc. d/b/a Commonwealth, Defendant(s)  
Worldwide Transportation and Dawson A. Butler, Jr.

## SUMMONS

To the above-named Defendant: Commonwealth Limousine Service, Inc.You are hereby summoned and required to serve upon Philip J. Gordon, Esq.

plaintiff's attorney, whose address is Gordon Law Group, P.C., 585 Bevilacqua, Boston MA 02116, answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Boston either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Barbara J. Rouse, Esquire, at Boston, the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord two thousand \_\_\_\_\_.

*Michael Joseph Donovan*

Clerk/Magistrate

NOTICE TO DEFENDANT  
— You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

## NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED  
(1) TORT — (2) MOTOR VEHICLE TORT — (3) CONTRACT — (4) EQUITABLE RELIEF — (5) OTHER

FORM CIV.P. 1 3rd Rev. 20M-10/11

## I HEREBY ATTEST AND CERTIFY ON

March 14, 2012, THAT THE  
FORGOING DOCUMENT IS A FULL,  
TRUE AND CORRECT COPY OF THE  
ORIGINAL ON FILE IN MY OFFICE.  
AND IN MY LEGAL CUSTODY.

MICHAEL JOSEPH DONOVAN  
CLERK / MAGISTRATE  
SUFFOLK SUPERIOR CIVIL COURT  
DEPARTMENT OF THE TRIAL COURT

By: *[Signature]*  
Asst. Clerk

8830061

**Commonwealth of Massachusetts**

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL ACTION  
No. \_\_\_\_\_

\_\_\_\_\_, Plaintiff,

v.

\_\_\_\_\_, Defendant.

SUMMONS  
(Mass. R. Civ. P. 4)  
(AFFIX FILING STAMP HERE)


\_\_\_\_\_, 201

PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN  
THIS BOX ON THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.

Deputy Sheriff Edward J. Tobin

Deputy Sheriff

*Edward J. Tobin*

  
Suffolk ss.  
I hereby certify and return that on 2/9/2012 at 2:05 PM, I served a true and attested copy of the Summons, Complaint, Amended Complaint, Cover Sheet, and Filing Order in this action in the following manner: To wit, by delivering in hand to Kelly Macuspie, Secretary agent, and person in charge at the time of service, for Commonwealth Limousine Service, Inc., 250 Everett Street, Allston, MA. In this service hereof it was necessary and I actually used a motor vehicle 8 miles. Attest/Copies (\$5.00) Basic Service Fee (\$30.00) Conveyance (\$2.40) Postage and Handling (\$1.00) Travel (\$5.00) Total: \$43.40  
Suffolk County Sheriff's Department • 132 Portland Street, Boston, MA 02114 • (617) 704-6989  
February 9, 2012

## Commonwealth of Massachusetts

5

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL ACTIONNo. 12-0134 BJaime Bokko, on behalf of himself and others, Plaintiff(s)  
simultaneously served

v.

Commonwealth Linenshire Sewing, Inc. d/b/a Commonwealth, Defendant(s)  
Worldwide Transportation and Dawson A. Barker, Jr.

## SUMMONS

To the above-named Defendant: Dawson A. Barker, Jr.You are hereby summoned and required to serve upon Philip J. Gordon, Esq.

plaintiff's attorney, whose address is Gordon Law Group LLP, 585 Bay Street, Boston MA 02114 an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Boston either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Barbara J. Rouse, Esquire, at Boston, the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord two thousand \_\_\_\_\_.

*Michael Joseph Donovan*  
Clerk/Magistrate

NOTICE TO DEFENDANT — You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

## NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED  
(1) TORT — (2) MOTOR VEHICLE TORT — (3) CONTRACT — (4) EQUITABLE RELIEF — (5) OTHER

FORM CIV.P. 1 3rd Rev. 20M-10/11

## HEREBY ATTEST AND CERTIFY ON

March 14, 2012, THAT THE  
FOREGOING DOCUMENT IS A FULL,  
TRUE AND CORRECT COPY OF THE  
ORIGINAL ON FILE IN MY OFFICE,  
AND IN MY LEGAL CUSTODY.

MICHAEL JOSEPH DONOVAN  
CLERK / MAGISTRATE  
SUFFOLK SUPERIOR CIVIL COURT  
DEPARTMENT OF THE TRIAL COURT

BY: *[Signature]*

Asst. Clerk

**Commonwealth of Massachusetts**

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL ACTION

No. \_\_\_\_\_

\_\_\_\_\_. Piff(s).

v.

\_\_\_\_\_. Deft(s).

SUMMONS  
(Mass. R. Civ. P. 4)  
(AFFIX FILING STAMP HERE)

1000772

201

PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN  
THIS BOX ON THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.

*Edward J. Tobin*  
Deputy Sheriff

Deputy Sheriff Edward J. Tobin

I hereby certify and return that on 2/7/2012 at 10:35 AM I served a true and attested copy of the summons, complaint and cover sheet, amended complaint in this action in the following manner: To wit, by leaving at the last and usual place of abode of Dawson A. Rutter, Jr., 280 Beacon Street Boston, MA and by mailing 1 class to the above address on 2/7/2012. Attest/Copies (\$10.00) Basic Service Fee (\$20.00) Postage and Handling (\$3.00) Travel (\$1.00) Total: \$34.00

Suffolk County Sheriff's Department • 132 Portland Street, Boston, MA 02114 • (617) 704-6999  
Suffolk, ss.

